



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,432	04/30/2001	Aaron W. Buchwald	1875.0560001	9072
26111	7590	04/21/2005		
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
			EXAMINER	
			PERILLA, JASON M	
			ART UNIT	PAPER NUMBER
			2634	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/844,432

Applicant(s)

BUCHWALD ET AL.

Examiner

Jason M Perilla

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 3,4,8-11,14-17,19,20 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-5, and 8-28 are pending in the instant application.

Drawings

2. The replacement drawing sheets of figures 9 and 10 were received on November 9, 2004. These drawings are accepted by the Examiner.

Response to Arguments/Amendments

3. The rejections of the claims set forth in the office action dated July 14, 2004 have been withdrawn in view of the amendments to the claims and the remarks filed November 9, 2004 as well as in view of the in person interview on November 8, 2004.
4. This office action is in response to the Amendment filed November 9, 2004.

Claim Objections

5. Claims 3, 4, 8-11, 14-17, 19, 20, and 24 are objected to because of the following informalities:

Regarding claim 3, in line 4, "at the rate" should be replaced by --at a rate--.

Regarding claim 8, in line 1, "a plurality" should be replaced by --the plurality--.

Regarding claim 10, in line 6, "at the rate" should be replaced by --at the rate--.

Regarding claim 14, in line 3, "at the rate" should be replaced by --at the rate--.

Regarding claim 16, in line 2, "deriving the data" should be replaced by --deriving the interpolated phase of the data-- and "and phase" should be replaced by --and the phase--, and, in line 3, "signal phase responsive" should be replaced by --signal responsive--.

Regarding claim 19, in line 4, "the plurality" should be replaced by --a plurality--.

Regarding claim 20, in line 2, "a frequency" should be replaced by –the frequency—in both instances.

Regarding claim 24, the claim should depend upon claim 23 rather than claim 30.

Appropriate correction is required.

Allowable Subject Matter

6. Claims 1-5 and 8-28 are indicated to contain allowable subject matter.
7. The following is a statement of reasons for the indication of allowable subject matter:

Claims 1-5 and 8-28 are indicated to contain allowable subject matter because the prior art of record does not anticipate or obviate all the limitations in the independent claims 1 and 12. With the amendment of November 9, 2004, the prior art reference Evans et al (US 6002279) no longer anticipates the claimed limitations. Specifically, Evans et al does not disclose a phase interpolator which derives a data sampling signal to be placed upon a data path and a phase sampling signal to be placed upon a phase path.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following prior art of record not relied upon above is cited to further show the state of the art with respect to the recovery of timing information.

U.S. Pat. No. 5581585 to Takatori et al.

9. This application is in condition for allowance except for the following formal matters:

The objections above.


Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.


A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M Perilla whose telephone number is (571) 272-3055. The examiner can normally be reached on M-F 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on (571) 272-3056. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jason M. Perilla
April 14, 2005


STEPHEN CHIN
SUPERVISORY PATENT EXAMINE
TECHNOLOGY CENTER 2800

jmp